

REMARKS

Claims 1-72 are pending in the present application. Claims 1-72 are rejected under the judicially created doctrine of obviousness-type double patenting. Applicants respectfully request reconsideration of the application, withdrawal of all rejections, and allowance of the application in view of the amendments and remarks below.

The Invention

The present invention provides novel condensation drug aerosols and methods for producing such aerosols. These condensations aerosols have little or no pyrolysis degradation products. The unique method for generating or producing such aerosols employs rapid vaporization of the drug to minimize drug degradation during the process. These vaporized drugs are subsequently condensed to form particles of a desirable particle size for inhalation. These aerosols are especially useful in the treatment of acute or chronic conditions wherein rapid onset of treatment is desirable.

The Amendments to the Claims

Without prejudice to the Applicants' rights to present claims of equal scope in a timely filed continuing application, to expedite prosecution and issuance of the application, the Applicants have amended Claims 1-3 and 34-36 and cancelled Claims 4-33 and 37-72. The Applicants also have presented new Claims 73-132. The amended claims and the new claims are supported by the specification (see below for examples of such support).

Claim	Examples of Support in the Specification
Claim 1	Paragraphs 0015, 0017, 0022, 0024; Example 1
Claim 2	Paragraph 0047
Claim 3	Paragraph 0047
Claim 34	Paragraphs 0015, 0017, 0022, 0024; Example 1
Claim 35	Paragraph 0047
Claim 36	Paragraph 0047
Claim 73	Paragraphs 0001 [incorporates by reference U.S. provisional application Ser. No. 60/317,479 (see, e.g., page 30, lines 25-27)], 0022
Claim 74	Paragraph 0022
Claim 75	As recited above for Claim 73
Claim 76	Paragraph 0017
Claim 77	Paragraph 0017
Claim 78	Paragraph 0104
Claim 79	Paragraph 0015
Claim 80- Claim 89	Paragraph 0015
Claim 90	As recited above for Claim 73
Claim 91	Paragraph 0022
Claim 92	As recited above for Claim 73

Claim	Examples of Support in the Specification
Claim 93	Paragraph 0017
Claim 94	Paragraph 0017
Claim 95	Paragraph 0104
Claim 96- Claim 106	Paragraph 0015
Claim 107- Claim 119	Paragraphs 0001 [incorporates by reference U.S. provisional application Ser. No. 60/317,479 (see, e.g., page 30, lines 25-27)] 0015, 0017, 0022, 0024
Claim 120- Claim 132	Paragraphs 0001 [incorporates by reference U.S. provisional application Ser. No. 60/317,479 (see, e.g., page 30, lines 25-27)] 0015, 0017, 0022, 0024

The amendments to the claims do not introduce new matter. Applicants respectfully submit that the amendments to the claims put the case in condition for allowance. The Examiner is respectfully requested to enter the amendments to the claims and allow all amended claims.

Double Patenting

Claims 1-72 were rejected under the judicially created doctrine of obviousness-type double patent as being unpatentable over claims of U.S. Patent Nos. 6,716,417 B2 and 6,855,310 B2, as these claims are “either anticipated by, or would have been obvious over, the reference claims.” Office Action at 2-3.

Claims 1-33 were provisionally rejected under the doctrine of obviousness-type double patenting as being unpatentable over claims of copending Application Nos. 10/735,199, 10/735,497 and 10/718,982. *Id.* at 3-5.

Applicants have filed with this response Terminal Disclaimers with regard to U.S. Patent Nos. 6,716,417 B2 and 6,855,310 B2 and copending Application Nos. 10/735,199, 10/735,497 and 10/718,982. Applicants believe that this addresses the Examiner’s concerns and respectfully request reconsideration of the application, withdrawal of all rejections, and allowance of the application in view of these actions and remarks.

Conclusion

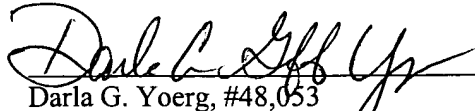
The Applicants appreciate the Examiner’s careful and thorough review of the application and submit that the Examiner’s concerns have been addressed by the amendments and remarks above. The Applicants accordingly request the Examiner to withdraw all rejections and allow the application. In the event the Examiner believes a telephonic discussion would expedite allowance or help to resolve outstanding issues, prosecution of the application, then the Examiner is invited to call the undersigned.

This constitutes a request for any needed extension of time and an authorization to charge all fees therefore to deposit account No. 19-5117, if not otherwise specifically requested. The undersigned

hereby authorizes the charge of any fees created by the filing of this document or any deficiency of fees submitted herewith to be charged to deposit account No. 19-5117.

Respectfully submitted,

Date: September 22, 2005


Darla G. Yoerg, #48,053
Swanson & Bratschun, L.L.C.
1745 Shea Center Drive, Suite 330
Highlands Ranch, Colorado 80129
Telephone: (303) 268-0066
Facsimile: (303) 268-0065

S:\CLIENTFOLDERS\ALEXZA\43.05CON\00043.05CON RESP OA.DOC